UNION PACIFIC RAILROAD COMPANY *v.* HUXOLL, ADMINISTRATRIX OF HUXOLL.

ERROR TO THE SUPREME COURT OF THE STATE OF NEBRASKA.

No. 104. Argued December 21, 1917.—Decided January 21, 1918.

The question whether any substantial evidence was introduced to justify submission of a case to the jury on the issue of proximate causal negligence is one of law, reviewable by this court, in an action under the Federal Employers' Liability Act, coming from a state court.

A railroad employee was run down and killed in a switching yard by a switching engine, backing on a track, between the rails of which he was walking in the opposite direction. He was passing through an extensive cloud of steam and smoke coming from a round-house and nearby engines, which had settled upon the tracks on a very cold and windy day. The cloud was dense but shifting, so that at times one might see through it considerable distances, and at others but